

CIVIL CASE NO. 3:06cv298

Defendants.

ORDER

On October 18, 2006, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 16] in this case containing proposed findings of

fact and conclusions of law in support of a recommendation regarding the Motion to Dismiss for Failure to State a Claim [Doc. 6] filed by the defendants LSAA, Inc. and Sam's Mart, Inc. and the Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. 8] filed by the defendant Sam's Mart, Inc. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation. The period within which to file objections expired on November 1, 2006. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation [Doc. 16] that the defendants' Motion to Dismiss for Failure to State a Claim [Doc. 6] should be granted with respect to the plaintiff's Title VII hostile work environment claim, but denied with respect to the plaintiff's Title VII disparate treatment claims. The Court further accepts the Magistrate Judge's Recommendation [Doc. 16] that the

defendant Sam's Mart, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. 8] should be granted.

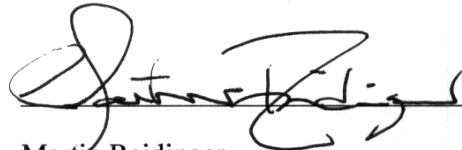
IT IS, THEREFORE, ORDERED that the defendants' Motion to Dismiss for Failure to State a Claim [Doc. 6] is **GRANTED IN PART AND DENIED IN PART**. Specifically, the defendants' motion [Doc. 6] is **GRANTED** and the complaint is **DISMISSED WITH PREJUDICE** with respect to the plaintiff's Title VII hostile work environment claim, but **DENIED** with respect to the plaintiff's Title VII disparate treatment claims.

IT IS FURTHER ORDERED that the defendant Sam's Mart, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. 8] is **GRANTED** and the complaint is hereby **DISMISSED WITH PREJUDICE** with respect to the defendant Sam's Mart, Inc.

The parties are hereby **DIRECTED** to conduct an Initial Attorneys' Conference within fifteen (15) days of the entry of this Order. The parties are further **DIRECTED** to file a Certification of Initial Attorneys' Conference within five (5) days thereafter so that the Magistrate Judge can enter the Case Management Order as soon thereafter as practical.

IT IS SO ORDERED.

Signed: October 5, 2007


Martin Reidinger
United States District Judge

